

[Service Date February 3, 2011]
**BEFORE THE WASHINGTON STATE
 UTILITIES AND TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND	)	DOCKET TV-101616
TRANSPORTATION COMMISSION,)	
	)	ORDER 01
Complainant,)	
	)	INITIAL ORDER GRANTING
v.	)	REQUEST TO DISMISS
	)	COMPLAINT AGAINST G. J.
AAA MOVING & STORAGE, INC.	)	DANIELS, INC., ERIC STEWART
(WASHINGTON), AMERICA’S MOVING	)	D/B/A IRONMAN MOVING
MACHINES, INC., CAN’T STOP	)	SERVICES, SWAN’S MOVING &
MOVING, G. J. DANIELS, INC., ERIC	)	STORAGE CO., INC., AND T & S
STEWART D/B/A IRONMAN MOVING	)	TRANSPORTATION &
SERVICES, SWAN’S MOVING &	)	INSTALLATION, INC.;
STORAGE CO., INC., T & S	)	GRANTING REQUEST TO FIND
TRANSPORTATION & INSTALLATION,	)	REMAINING COMPANIES IN
INC.	)	DEFAULT AND CANCELING
	)	CARRIER PERMITS FOR
Respondents.	)	FAILURE TO FILE ANNUAL
	)	REPORTS AND PAY
.....	)	REGULATORY FEES

*1 **Synopsis.** This is an Administrative Law Judge’s Initial Order that is not effective unless approved by the Commission or allowed to become effective as described in the notice at the end of this Order. This Initial Order grants the request to dismiss the complaint against G. J. Daniels, Inc., Eric Stewart d/b/a IronMan Moving Services, Swan’s Moving & Storage Co., Inc. and T & S Transportation & Installation, Inc. In addition, the Order grants the request to find the remaining three household goods carriers named in the complaint in default and cancels their permits for failure to file annual reports for 2009 and pay regulatory fees for 2010.*

2 **Nature of Proceeding.** This proceeding involves a complaint seeking cancellation of the permits of certain named household goods carriers for failure to submit annual reports for 2009 and failure to pay regulatory fees for 2010.

3 **Appearances.** Greg Trautman, Assistant Attorney General, Olympia, Washington represents the Washington Utilities and Transportation Commission's (Commission) regulatory staff (Staff).¹ None of the household goods carriers named in the complaint appeared at the hearing.

4 **Background and Procedural History.** On November 19, 2010, the Commission entered a complaint against AAA Moving & Storage, Inc. (AAA Moving), America's Moving Machines, Inc., Can't Stop Moving, G. J. Daniels, Inc., Eric Stewart d/b/a IronMan Moving Services, Swan's Moving & Storage Co., Inc. and T & S Transportation & Installation, Inc. (collectively "the Companies"). The complaint alleges that each of the seven companies failed to file required annual reports for 2009 and also failed to pay required regulatory fees for 2010. The Commission set this matter for hearing and notified all respondents that any party that failed to attend or participate in the hearing may be held in default.

5 The complaint was heard on due and proper notice to all parties on February 2, 2011, in Olympia, Washington before administrative law judge (ALJ) Adam E. Torem. During the hearing, Staff presented the testimony of Sheri Hoyt, Compliance Specialist in the Commission's Business Practices Investigations Section. None of the household goods carriers named in the complaint appeared or presented testimony.

DISCUSSION AND DECISION

6 **Applicable Law.** Every public service company operating in Washington is required to file an annual report that sets forth the company's operations during the preceding year. RCW 81.04.080. Every common carrier must also pay a regulatory fee of no more than one quarter of one percent of its gross income from intrastate operations for the previous calendar year on or before the date specified by the Commission.

¹ In formal proceedings, such as this, the Commission's regulatory staff participates like any other party, while the Commissioners make the decision. To assure fairness, the Commissioners, the presiding administrative law judge, and the Commissioners' policy and accounting advisors do not discuss the merits of this proceeding with the regulatory staff, or any other party, without giving notice and opportunity for all parties to participate. See, RCW 34.05.455.

RCW 81.80.321. Commission rules require all household goods permit holders to file annual reports and pay regulatory fees by May 1. WAC 480-15-480. The Commission may cancel a household goods carrier permit for good cause, which includes, but is not limited to the failure to file an annual report or pay regulatory fees. WAC 480-15-450. Any party who fails to attend or participate in a hearing scheduled by the Commission may be held in default. RCW 34.05.440 and WAC 480-07-450.

- 7 **Motion to Dismiss – Four Companies that Came into Compliance.** At the hearing, Staff moved to dismiss the complaint against four companies that came into compliance after the date the complaint was entered: G. J. Daniels, Inc., Eric Stewart d/b/a IronMan Moving Services, Swan's Moving & Storage Co., Inc. and T & S Transportation & Installation, Inc. In response to the Complaint, each of these four companies filed an Annual Report for 2009 and paid all required regulatory fees for 2010 (including associated late filing fees).² Commission Staff indicated that these four companies have now accomplished all filing and fee payment requirements necessary to come into compliance. Accordingly, the motion to dismiss is granted.
- 8 **Default.** With respect to the three remaining household goods carriers named in the complaint, Staff moved that they be held in default for failure to appear at hearing. The record reflects that all three companies received notice of the hearing by both certified and first class mail at their address of record and failed to appear or otherwise respond to the complaint.³ Therefore, the presiding ALJ granted the motion. Even so, Staff requested that the Commission hear and dispose of the substantive issues brought in the complaint against these companies.
- 9 **Complaint.** Ms. Sheri Hoyt testified that she reviews the Commission's Annual Report Tracking System (ARTS) to obtain a list of all companies that are delinquent in filing their annual reports or paying their regulatory fees. Ms. Hoyt reviewed ARTS data for each company named in the complaint as late as the morning of the hearing, February 2, 2011, and determined that aside from Hing's, none of the six remaining household goods carriers named in the complaint had filed their annual reports for 2009 or paid their outstanding regulatory fees for 2010.

² See Exh. 1 (G.J. Daniels, Inc.), Exh. 2 (Eric Stewart d/b/a IronMan Moving Services), Exh. 3 (Swan's Moving & Storage Co., Inc.), and Exh. 4 (T & S Transportation & Installation, Inc.).

³ Certified mail was returned as unclaimed but was not marked as undeliverable.

- 10 *AAA Moving.* AAA Moving & Storage, Inc. is a public service company as defined in RCW 81.04.010. AAA Moving holds authority to transport household goods in the state of Washington for compensation. According to WAC 480-15-480, AAA Moving is required to submit annual reports to the Commission and pay regulatory fees. The Commission may cancel a household goods carrier permit, after notice and opportunity for hearing, for good cause. Good cause includes the failure to file an annual report or pay regulatory fees. A review of the Commission's files and records shows that AAA Moving failed to file its annual report for 2009 and failed to pay regulatory fees for 2010. Moreover, AAA Moving failed to appear at the time and place scheduled for hearing in this matter and is in default. Accordingly, AAA Moving's household goods permit should be canceled.
- 11 *America's Moving Machines, Inc.* America's Moving Machines, Inc., is a public service company as defined in RCW 81.04.010. America's Moving Machines holds authority to transport household goods in the state of Washington for compensation. According to WAC 480-15-480, America's Moving Machines is required to submit annual reports to the Commission and pay regulatory fees. The Commission may cancel a household goods carrier permit, after notice and opportunity for hearing, for good cause. Good cause includes the failure to file an annual report or pay regulatory fees. A review of the Commission's files and records shows that America's Moving Machines failed to file its annual report for 2009 and failed to pay regulatory fees for 2010. Moreover, America's Moving Machines failed to appear at the time and place scheduled for hearing in this matter and is in default. Accordingly, America's Moving Machines' household goods permit should be canceled.
- 12 *Can't Stop Moving.* Can't Stop Moving is a public service company as defined in RCW 81.04.010. Can't Stop Moving holds authority to transport household goods in the state of Washington for compensation. According to WAC 480-15-480, Can't Stop Moving is required to submit annual reports to the Commission and pay regulatory fees. The Commission may cancel a household goods carrier permit, after notice and opportunity for hearing, for good cause. Good cause includes the failure to file an annual report or pay regulatory fees. A review of the Commission's files and records shows that Can't Stop Moving failed to file its annual report for 2009 and failed to pay regulatory fees for 2010. Moreover, Can't Stop Moving failed to appear at the time and place scheduled for hearing in this matter and is in default. Accordingly, Can't Stop Moving's household goods permit should be canceled.

FINDINGS OF FACT

- 13 Having discussed above in detail the evidence received in this proceeding concerning all material matters, and having stated above our findings and conclusions upon issues in dispute among the parties and the reasons supporting the findings and conclusions, the Commission now makes and enters the following summary findings of fact , incorporating by reference pertinent portions of the preceding detailed findings.
- 14 (1) The Washington Utilities and Transportation Commission is an agency of the State of Washington, vested by statute with authority to regulate rates, rules, regulations, practices, and accounts of public service companies, including common carriers such as household goods carriers.
- 15 (2) AAA Moving & Storage, Inc., America's Moving Machines, Inc., Can't Stop Moving, G. J. Daniels, Inc., Eric Stewart d/b/a IronMan Moving Services, Swan's Moving & Storage Co., Inc., and T & S Transportation & Installation, Inc., each are a "public service company," "common carrier" and "household goods carrier" as those terms are defined and used in RCW Title 81.
- 16 (3) On November 19, 2010, the Commission entered a complaint and notice of hearing. The complaint against each of the above-named household goods carriers sought cancellation of the company's permit for failure to submit an annual report and pay regulatory fees. The notice of hearing scheduled a hearing to convene on February 2, 2011, in Olympia, Washington.
- 17 (4) Subsequent to entry of the complaint, G. J. Daniels, Inc., Eric Stewart d/b/a IronMan Moving Services, Swan's Moving & Storage Co., Inc. and T & S Transportation & Installation, Inc. each filed their 2009 annual reports and paid their regulatory fees for 2010.
- 18 (5) AAA Moving & Storage, Inc., America's Moving Machines, Inc., and Can't Stop Moving, each failed to appear at the hearing held on February 2, 2011.
- 19 (6) AAA Moving & Storage, Inc., America's Moving Machines, Inc., and Can't Stop Moving, each failed to file their annual reports for 2009 and also failed to pay regulatory fees for 2010.

CONCLUSIONS OF LAW

- 20 Having discussed above all matters material to this decision, and having stated detail findings, conclusions, and the reasons therefore, the Commission now makes the following summary conclusions of law incorporating by reference pertinent portions of the preceding detailed conclusions.
- 21 (1) The Washington Utilities and Transportation Commission has jurisdiction over the subject matter of, and the parties to, this proceeding. RCW Title 81.
- 22 (2) G. J. Daniels, Inc., Eric Stewart d/b/a IronMan Moving Services, Swan's Moving & Storage Co., Inc., and T & S Transportation & Installation, Inc., each filed their 2009 annual reports and paid their regulatory fees for 2010, bringing these four companies into compliance with state law and Commission regulations governing the filing of annual reports and payment of regulatory fees.
- 23 (3) The Commission may, after notice and opportunity for hearing, cancel the permit of any household goods carrier for good cause. WAC 480-15-450.
- 24 (4) The failures of AAA Moving & Storage, Inc., America's Moving Machines, Inc., and Can't Stop Moving to file their annual reports for 2009 and pay regulatory fees for 2010 constitutes good cause to cancel their household goods permits to operate in Washington state. RCW 81.04.010, RCW 81.04.080, and WAC 480-15-450.
- 25 (5) AAA Moving & Storage, Inc., America's Moving Machines, Inc., and Can't Stop Moving each failed to appear at the February 2, 2011, hearing in this matter and are in default. RCW 34.05.440 and WAC 480-07-450.

ORDER

THE COMMISSION ORDERS THAT:

- 26 (1) The complaint against G. J. Daniels, Inc., Eric Stewart d/b/a IronMan Moving Services, Swan's Moving & Storage Co., Inc. and T & S Transportation & Installation, Inc., is dismissed.
- 27 (2) AAA Moving & Storage, Inc., America's Moving Machines, Inc., and Can't Stop Moving are each in default.
- 28 (3) The household goods carrier permits held by AAA Moving & Storage, Inc., America's Moving Machines, Inc., and Can't Stop Moving are each canceled for good cause.

DATED at Olympia, Washington, and effective February 3, 2011.

WASHINGTON STATE UTILITIES AND TRANSPORTATION COMMISSION

ADAM E. TOREM
Administrative Law Judge

NOTICE TO PARTIES

This is an Initial Order. The action proposed in this Initial Order is not yet effective. If you disagree with this Initial Order and want the Commission to consider your comments, you must take specific action within the time limits outlined below. If you agree with this Initial Order, and you would like the Order to become final before the time limits expire, you may send a letter to the Commission, waiving your right to petition for administrative review.

WAC 480-07-825(2) provides that any party to this proceeding has twenty (20) days after the entry of this Initial Order to file a Petition for Administrative Review. What must be included in any Petition and other requirements for a Petition are stated in WAC 480-07-825(3). WAC 480-07-825(4) states that any party may file an Answer to a Petition for Review within ten (10) days after service of the Petition.

WAC 480-07-830 provides that before entry of a Final Order any party may file a Petition to Reopen a contested proceeding to permit receipt of evidence essential to a decision, but unavailable and not reasonably discoverable at the time of hearing, or for other good and sufficient cause. No Answer to a Petition to Reopen will be accepted for filing absent express notice by the Commission calling for such answer.

RCW 80.01.060(3) provides that an Initial Order will become final without further Commission action if no party seeks administrative review of the Initial Order and if the Commission fails to exercise administrative review on its own motion.

One copy of any Petition or Answer filed must be served on each party of record with proof of service as required by WAC 480-07-150(8) and (9). An original and **seven (7)** copies of any Petition or Answer must be filed by mail delivery to:

Attn: David W. Danner, Executive Director and Secretary
Washington Utilities and Transportation Commission
P.O. Box 47250
Olympia, Washington 98504-7250